PUBLIC NOTICE

US Army Corps of Engineers®

APPLICATION FOR PERMIT

LOS ANGELES DISTRICT

Public Notice/Application No.: 200201236-RRS
Comment Period: 02/10/2003 through 03/11/2003
Project Manager: Robert Revo Smith Jr., P.E. (213) 452-3419 robert.r.smith@usace.army.mil

Applicant
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Location

The proposed project straddles the boundary between the City of Corona and Riverside County, California. Figure 1 shows the regional vicinity and study area on the USGS 7.5' *Corona South* quadrangle; Figure 2 shows the debris basin and its location relative to the residential development portion of the Top Capital Corona project. The proposed project site is located along Latitude 33º 50', Longitude 117º 35', within projected Sections 10 and 11, Township 4 South, Range 7 West. The on-site elevation of the proposed debris basin is approximately 1,200 feet.

Activity

The proposed project is a 118-acre site for construction of 237 residential units, associated roadways and infrastructure, stormwater basins, mitigation basin, and a debris basin, portions of which coincide Corps and California Department of Fish and Game (CDFG) jurisdiction. Most of the project site to be developed was formerly used as a commercial nursery. The impacted drainage is Channel 1, which includes both jurisdictional wetlands and non-wetland waters of the U.S.

Interested parties are hereby notified that an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawing(s). Interested parties are invited to provide their views on the proposed work, which will become a part of the record and will be considered in the decision. This permit will be issued or denied under Section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344).

Comments should be mailed to:

U.S. Army Corps of Engineers, Los Angeles District
ATTN: CESPL-CO – 199916057-RRS
911 Wilshire Boulevard
Los Angeles, California 90017

Alternatively, comments can be sent electronically to: rsmith@spl.usace.army.mil

Evaluation Factors

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the proposal, will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Preliminary Review of Selected Factors

EIS Determination – A preliminary determination has been made that an environmental impact statement is not required for the proposed work.

Water Quality – The residential portion of the proposed project will include two stormwater basin facilities, within the project site. Each stormwater basin will consist of a sediment pond (forebay) which will release flows into a shallow wetlands system. The sediment pond/wetlands system will be designed to receive and treat daily nuisance water and to contain first flush storm flows from a 10-year storm event. The total volume of storm flows exiting the site will increase due to the increase in the amount of impervious surface area within the developed project site. For storms up to a 10-year event the stormwater basins will be designed to ensure that the rate of flow from the developed site does not exceed the rate of flow from the undeveloped site. The stormwater basins will result in the removal, and reduction, of hydrocarbons, nitrates, nutrients, heavy metals and sediment from the runoff for the proposed project and will prevent such elements from reaching off-site drainage courses. The design and sizing of the water quality basin facilities will adhere to the criteria as indicated in A.S.C.E. Manual No. 87 as required by the Riverside County Flood Control and Water Conservation District. The Corps has not received the Section 401 water quality from the Regional Board but shall incorporate it as a special condition of the permit.

Coastal Zone Management – For those projects in or affecting the coastal zone, the Federal Coastal Zone Management Act requires that prior to issuing the Corps authorization for the project, the applicant must obtain concurrence from the California Coastal Commission that the project is consistent with the State's Coastal Zone Management Plan. This project is located outside the coastal zone and preliminary review indicates that it will not affect coastal zone resources.

Cultural Resources – An archaeological record search was conducted by L & L Environmental, Inc. (L & L) on October 18, 2000. The results indicated one prehistoric archaeological site had previously been recorded within the study area. A Phase1 field survey was conducted in mid-November 2000, but the prehistoric archaeological site could not be positively identified. Preliminary data evaluation has suggested that this site is a "Not significant" archaeological resource.

A paleontological study of the project area suggested earthmoving associated with construction, as well as unauthorized fossil collecting, could result in the loss of important paleontology resources. Paleontological monitoring during earthmoving phases of the project was recommended.

Endangered Species – On December 11, 2001, an on-site meeting was held to discuss the various project issues. Present at the meeting were the U.S. Army Corps of Engineers, LSA Associates, Inc., and K&A Engineering. During the on-site meeting the issue of the Stephens' kangaroo rat (*Dipodomys stephensi*) (SKR) (federally listed as endangered and State listed as threatened) was discussed. LSA was in the process of conducting a survey for the SKR at that time and the results subsequently determined the species was absent from the site.

The issue of the CAGN (federally listed as threatened) and designated critical habitat was also discussed. L & L conducted focused surveys for the CAGN between October 2000 and February 2001. The CAGN was not observed on-site during these surveys. However, a single CAGN was observed in chaparral/coastal sage scrub habitat adjacent, and contiguous, to the project site. It is therefore reasonable to conclude that the potential exists for the species to utilize the on-site habitat as well.

Approximately 43 acres of the project site have been designated as critical habitat for the CAGN. A swath of critical habitat varying in width from about 1,000 feet to about 4,000 feet has been designated to the southwest of the project site, including a narrow band within the southwestern boundary of the project site.

The proposed project would narrow this swath of critical habitat by an average width of about 50 feet. However, the majority of the impacted critical habitat located within the project boundary consists of ruderal land formerly used for the commercial nursery. Of the 43 acres of critical habitat area on the site, a total of 19.52 acres would be impacted by grading activities, including 1.19 acres that contain the primary constituent elements to provide suitable habitat for the CAGN, and 18.33 acres of ruderal land. An additional 1.07 acres of ruderal land and 0.68 acre of chaparral/coastal sage scrub on-site will be impacted by fuel modification activities. The balance of the 43 acres (21.73 acres) will not be impacted by the proposed project.

Impacts by the proposed project to the designated critical habitat will require the initiation of a Section 7 Formal Consultation with the U.S. Fish and Wildlife Service (USFWS) under the authority of the Endangered Species Act (ESA). A Biological Assessment has been prepared to discuss and evaluate the impacts of the proposed project on the CAGN and the designated critical habitat within the project site. The USFWS is expected to complete the Biological Opinion by January 31, 2003.

On April 3, 2002, LSA met on-site with the USFWS to discuss least Bell's vireo (*Vireo bellii pusillus*) (LBV) surveys and CAGN critical habitat issues. At that meeting, the USFWS requested that the original LBV survey (completed in 2000) be updated. LSA has completed those surveys. The species was determined to be absent from the site.

Public Hearing – Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

Proposed Activity for Which a Permit is Required

The specific action requiring a Department of the Army permit is the placement of fill material in waters of the U.S. within Channel 1.

The jurisdictional delineation for the project site was prepared by L & L in March 2000 (Jurisdictional Wetland Delineation On APN 114-030-017, City Of Corona, California).

The project site is drained by three unnamed drainages, all of which are ultimately tributary to the Santa Ana River, approximately four and one-half miles to the northwest of the site. The Santa Ana River is a direct tributary of the Pacific Ocean, which establishes the interstate commerce nexus required for U.S. Army Corps of Engineers (Corps) jurisdiction.

Channel 1 enters the project site through the National Forest Boundary at the location of "Pond 1" as described in the Jurisdictional Wetland Delineation on APN 114-030-017, City Of Corona, California, prepared for the project by L & L in March, 2000. Immediately below Pond 1 lies the "former pond." The dam of the former pond has been breached and no longer functions as a pond. These two structures may have been used to supply irrigation water for the commercial nursery operation that in the past occupied the northern portion of the project site. Channels 2 and 3 are ephemeral streams located in the southeast corner of the project site in an area that will not be impacted by the proposed project. Both of these drainages enter a detention basin just off-site at the southeast corner of the project site.

L & L concluded there were a total of 0.31 acre of jurisdictional waters of the U.S. within the project site. Of that total, 0.05 acre is considered wetlands (within Pond 1) and 0.26 acre is non-wetland waters of the U.S./streambeds. The portion of the proposed debris basin that will be constructed off- site includes an additional 0.14 acre of wetland waters of the U.S. Therefore, the total jurisdictional waters of the U.S. is 0.45 acre of which 0.19 acre is wetlands and 0.26 acre is non-wetland waters of the U.S. Channels 2 and 3, located in the southeast portion of the project site will not be impacted by the project.

Channel 1 will be impacted by the project. The northern portion of the drainage (approximately 2650 feet) is located within the area that was previously utilized as a commercial nursery. This reach of the drainage has been heavily impacted by the nursery operation. It supports mostly non-native vegetation with a few widely scattered mule fat. The southern reach of the on-site drainage (approximately 360 linear feet) supports approximately 0.27 acre of riparian habitat that will be impacted by the proposed project. The December 11, 2001, on-site meeting was held with the Corps to verify the jurisdictional delineation by L & L and discuss issues relevant to the project. It was the Corps conclusion the reach of Channel 1 (within Pond 1 and the former pond) would be considered an intermittent stream, while the remainder of the on-site reach of Channel 1 (between the former pond and the point where it exits the project site) would be considered ephemeral. Channels 2 and 3 were also considered to be ephemeral drainages. Impacts to the intermittent reach of Channel 1 from construction of the debris basin will exceed the 300-linear-foot limit for a Nationwide Permit 39 and therefore require authorization under an individual permit.

Mitigation

Mitigation for impacts to waters of the U.S. will consist of the construction of an on-site mitigation basin located immediately below the debris basin. Within the basin 0.40 acre of wetlands will be created on the bottom of the basin. Additionally, 0.17 acre of streambed and adjacent wetlands will be enhanced. Enhancement will consist of removing trash and non-native vegetation from 200 linear feet of Channel 1 and the adjacent wetlands immediately upstream of the debris basin. A portion of the total mitigation effort will consist of the purchase of 0.50 acre of mitigation credits in the Team Arundo program.

An additional 0.19 acre of riparian habitat will be created on the interior slopes of the basin.

Proposed mitigation for impacts to designated critical habitat for the California gnatcatcher will consist of the purchase of six acres of mitigation credits in the Wilson Creek LLC. mitigation bank in southwestern Riverside County.

Purpose and Need of the Proposed Project

The basic purpose of the proposed debris basin is to protect existing and future residential homes from large-scale mud and debris flows.

Preliminary Alternatives Analysis

Guidance provided by the Corps during the December 11, 2001, meeting was as follows:

- Construction of the debris basin would be considered a water-dependent activity.
- The alternatives analysis could be limited to the siting and construction of the debris basin.
- No alternatives analysis would be required for placing fill material into the ephemeral reach of Channel 1 (below the debris basin).

For purposes of this alternatives analysis, and per the Corps guidance above, all acreage numbers, references to the proposed project, and discussions of discharge of fill material into waters of the U.S., are specific to the debris basin and not the total Top Capital Corona project, unless otherwise noted. The impacts to waters of the U.S. from the total project (residential development and the debris basin) are discussed in the Application For Department Of The Army Permit and the included cover letter to the Corps.

In addition to the proposed project, the applicant has proposed four project alternatives: the Maximum Preservation Alternative, two reduced-impact alternatives (Locating the Debris Basin North of the Wetlands Area, and Deepen the Debris Basin at the Currently Proposed Location), and one off-site alternative. The applicant has submitted a report describing the biological resources on-site, and assessed potential project impacts to biological resources and archaeological resources for each on-site alternative. No assessment of potential impacts to archaeological resources was completed for the off-site alternative. A summary of the analysis of each alternative is presented below.

A.1 The Maximum Preservation Alternative

Alternative 1 avoids all impact to waters of the U.S. by not constructing the project and providing no solution to the identified need to control large-scale mud and debris flows at this location. The existing Pond 1 provides some minimal protection for sediment control but lacks the capacity and structural design to provide protection from the large-scale mud and debris flows.

On-Site Alternative 1 does not meet either the basic or overall project purpose of protecting existing and future residential homes from large-scale mud and debris flows, and doing so at a reasonable cost. Since no project is constructed under this alternative, and the project purposes are not achieved, it is not considered a practicable alternative to the proposed project.

A.2 Locating the Debris Basin North of the Wetland Area

On-Site Alternative 2 would locate the debris basin within Channel 1 but north a sufficient distance to eliminate impacts to the wetland area. Moving the debris basin to the north would place it within the designated Elsinore Fault Zone. This fault has been mapped by the State of California and the County of Riverside. On-site exploratory trenches have located the fault alignment within the Top Capital Corona property immediately north of the Pond 1 area. The County of Riverside and the City of Corona do not allow the structural portions of the debris basin to be within the designated fault zone or setback. Therefore, this alternative is not a feasible alternative.

On-Site Alternative 2 does not meet either the basic or overall project purpose of protecting existing and future residential homes from large-scale mud and debris flows, and doing so at a reasonable cost. Since the County of Riverside and the City of Corona will not allow the debris basin to be constructed at this location it is not considered a practicable alternative to the proposed project.

No further evaluation of this alternative was done.

A.3 Construct the Debris Basin at the Currently Proposed Location with a Smaller Footprint and Increased Depth

Alternative 3 impacts slightly less waters of the U.S. by reducing the footprint of the debris basin while increasing the depth in order to maintain the same volume capacity as the proposed project. The constraints of the existing topography, access for maintenance, and slopes within the debris basin limit how deep the basin can be constructed. As a result of these limitations deepening the basin results in a footprint identical to the proposed project except at the upstream end where Channel 1 would enter the basin. It is estimated that approximately 10 feet less of Channel 1 would be impacted by this alternative. The channel width at this location is about six feet, resulting in reduced impacts to waters of the U.S. of only 60 square feet (0.001 acre). The additional cost of increasing the depth of the basin at this location would be about $62,000.

On-Site Alternative 3 meets the basic project purpose of protecting existing and future residential homes from large-scale mud and debris flows.

The overall project purpose is to protect existing and future residential homes from large-scale mud and debris flows at a reasonable cost. On-Site Alternative 3 does not meet the overall project purpose of protecting existing and future residential homes from large-scale mud and debris flows at a reasonable cost. The reduction in impacts to waters of the U.S. (60 square feet) from this alternative does not justify the increased cost of $62,000.

A.4 Off-Site Alternative

The Off-Site Alternative evaluates constructing the debris basin approximately 400 feet upstream of the currently proposed location to determine if fewer impacts to waters of the U.S. would result at a different location.

The Off-Site Alternative meets the basic project purpose of providing flood protection and reduced damages for

the residential properties at risk from large-scale mud and debris flows. This alternative does not meet the overall project purpose of providing protection to existing and future residential homes from large-scale mud and debris flows at a reasonable cost. Placing a debris basin at this location would increase construction costs approximately 45 percent over the cost of the proposed debris basin.

LSA inspected the area of Channel 1 where the off-site debris basin is proposed to be located. Based on the configuration and location of the off-site basin, LSA estimated 0.24 acre (includes 0.03 acre of the former pond) of jurisdictional waters of the U.S. would be permanently impacted, with an additional 0.10 acre of temporary impacts. The off-site alternative would result in an increase in impacts to jurisdictional wetlands.

The off-site debris basin would result in increased impacts to the coastal sage scrub/chaparral habitat within the CAGN critical habitat area. Approximately 1.31 acres of the coastal sage scrub/chaparral habitat type would be impacted by a debris basin in this location versus about 0.79 acre of coastal sage scrub/chaparral habitat impacted by the proposed debris basin.

Development costs for the Off-Site Alternative would be greater than those for the proposed project. The greater costs are primarily the result of the location of the off-site debris basin within the Channel 1 drainage. In order to meet the basic project purpose, a debris basin would be located upstream of the proposed debris basin in a narrower area of the drainage, resulting in substantially greater slope grading. The cost for developing a debris basin in this area would be 45 percent greater than the proposed debris basin.

A.5 The Proposed Project Alternative

Top Capital, LLC proposes to construct a debris basin to control large-scale mud and debris flows for the protection of existing and future homes in the Mountain Gate area north of the Cleveland National Forest.

The proposed debris basin is located at the northeastern foot of the Santa Ana Mountains. The area to the north of the site is an alluvial fan formed by runoff from the drainages located in this area of the Santa Ana Mountains. Immediately to the north of the site is the undeveloped area on which Top Capital, LLC proposes to develop residential homes. To the north, northwest, and northeast are existing residential developments, a portion of which would be protected from large-scale mud and debris flows by the proposed debris basin.

The proposed debris basin will be flanked on either side by existing topographic ridges. It will be constructed in the drainage bottom, encompassing a portion of the former pond, Pond 1, and approximately 130 feet of Channel 1 at this location. It will also include some non-jurisdictional upland area that is immediately adjacent to the waters of the U.S. in this area.

The proposed debris basin, as required by the County of Riverside Flood Control District and the City of Corona, is for providing storage capacity for debris generated by a single major flood event. The proposed basin will be an earthen dam facility, rectangular in shape. The configuration will capitalize on the natural topography by using the adjacent hillsides to contain the debris flow and minimize the size of the earthen embankment. The earthen dam portion of the facility will retain debris while a concrete outlet and spillway structure will allow stormwater to pass through. The outlet structure will be constructed of reinforced concrete surfacing from the top to the toe of the earthen dam. It will also include steel grating placed over the concrete to allow water to pass through without large debris such as trees and brush. A low flow outlet system with a grated steel inlet located at the bottom of the basin will allow minor storm flows to pass through a small-diameter pipe under the earthen dam. This structure will allow minor surface flows to pass through the basin and into the mitigation basin immediately below the debris basin. The outlet structures in the debris basin and the mitigation basin will be connected to the existing master planned storm drain facilities downstream. Access roads will be provided for routine maintenance and removal of debris from the debris basin. The proposed

debris basin will be designed for a 100-year storm event. No maintenance activities are planned for the mitigation basin.

The construction of the proposed debris basin will be done concurrently with the Top Capital Corona residential development immediately to the north.

The proposed project will meet basic and overall project purposes. It will protect existing and future residential homes from large-scale mud and debris flows from flows up to and including the 100-year storm event.

Construction of the proposed debris basin would result in the discharge of fill material into 0.22 acre of waters of the U.S. Of the 0.22 acre, 0.19 acre would be within wetland waters of the U.S. and 0.03 acre would be in non-wetland waters. These impacts would constitute permanent loss of waters of the U.S. An additional 0.05 acre of wetland waters would be impacted during construction of the debris basin, but would not involve placing fill material into the jurisdictional area. These impacts would constitute temporary loss of waters of the U.S.

The quality of the groundwater, stream and surface runoff will not be significantly affected by project implementation. Water is neither introduced to nor removed from the watershed. It is anticipated that, because of the current existence of Pond 1 at this same location, construction of the debris basin will cause little or no change in water quality from the current conditions.

The vegetation within the two pond areas and the off-site portion of the proposed project includes mule fat (*Baccharis salicifolia*) and red willow (*Salix laevigata*). The vegetation within the former pond also includes saltcedar (*Tamarix sp.),* short-podded mustard (*Hirschfeldia incana*), Russian thistle (*Salsola tragus*), and castor bean (*Ricinus communis*).

Focused biological surveys for the CAGN, LBV, and SKR have been completed on the site. LSA has completed a second focused survey for the LBV to update the original survey completed in 2000. No sensitive species have been observed to be using the site. However, a single CAGN was observed off-site in chaparral/coastal sage scrub habitat immediately adjacent and contiguous to the project site (Focused Survey for the California Gnatcatcher on APN 114-030-017, City of Corona, California, March 2001, L & L Environmental, Inc.). It is reasonable to conclude the species is utilizing the on-site habitat as well.

The watershed area of Channel 1 and the tributaries that will drain into the proposed debris basin is about 85 acres. Runoff entering into the basin will exit through a low flow structure connected with the mitigation basin immediately below the debris basin. Larger storm flows will bypass the mitigation basin and enter the storm drain system of the City of Corona. The proposed debris basin will be constructed to contain a 100-year storm event and will provide protection to the downstream residential areas for storm events up to that magnitude.

The total volume of storm flows exiting the proposed debris basin will be the same as what would exit from Pond 1 under the current conditions. Larger storm events that exceed the storage capacity of Pond 1 would result in the potential for flooding in the existing residential areas downstream of Pond 1. The proposed project would prevent flooding for storms up to the 100-year event.

Additional Project Information

A draft EIR has been prepared for this project (Mountain Gate Specific Plan Amendment [SPA01-008] and Tentative Tract Map No. 29868 [Circulated: June 2002], SCH# 2001071051). The final EIR was circulated September 2002.

Previous Fill of Potential Unvegetated Waters of the U.S. -- The applicant is not aware of any unauthorized fill of the above mentioned jurisdictional waters of the U.S.

Proposed Special Conditions

1. The permittee shall utilize Best Management Practices during project construction to minimize the dispersion of silt and debris to the Santa Ana River downstream of the proposed project site.

2. The permittee shall not remove vegetation from waters of the U.S. during the migratory bird-nesting season (March 15 to September 15). If necessary to remove vegetation from waters of the U.S. during this time the permittee will, with concurrence from the Corps:
   a. conduct a nesting bird survey to determine if nesting birds are present before removing vegetation from waters of the U.S., or
   b. if nesting birds are determined to be present no work will be allowed within a 50-foot radius of the nest.

3. The permittee shall implement and abide by the terms and conditions of the January 2003 (anticipated) Biological Opinion issued by the USFWS.

4. The permittee shall implement an on-site mitigation plan for 0.40 acre of riparian wetland mitigation, plus 0.17 acre of on-site enhancement to waters of the U.S. Additionally, the permittee shall purchase 0.50 acre of mitigation credits in the Team Arundo program.

5. The permittee shall implement and abide by the terms and conditions of the Section 401 certification.

6. The permittee shall have a biological monitor on-site during those times grading activities are within 100-feet of any preserved waters of the U.S. or within the proposed mitigation site.

For additional information please call Robert Revo Smith Jr., P.E. of my staff at (213) 452-3419. This public notice is issued by the Chief, Regulatory Branch.